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FINAL

Real Estate – Appendix C

For the
Miami Harbor Navigation Study
General Reevaluation Report

Miami-Dade County, Florida - 010140



**US Army Corps
of Engineers®**

Jacksonville District
South Atlantic Division

MIAMI HARBOR, FLORIDA
NAVIGATION STUDY
GENERAL REEVALUATION REPORT (GRR)
FINAL REAL ESTATE APPENDIX

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**MIAMI HARBOR, FLORIDA
GENERAL REEVALUATION REPORT (GRR)
FINAL REAL ESTATE APPENDIX**

1. Statement of Purpose. This General Reevaluation Report is intended to study the feasibility of further port deepening to improve navigation on the existing Miami Harbor project. It is tentative in nature for planning purposes only and is subject to change even after its approval.

2. Study Authorization.

a. The study was authorized by the Committee on Transportation and Infrastructure of the United States House of Representatives on October 29, 1997, with additional authorization appearing in subsequent appropriations bills.

b. House Document 101-205, dated June 21, 1990, recommended the current channel dimensions and depths of Miami Harbor. That authorizing document recommended, "that the authorized project for Miami Harbor be modified to include Federal maintenance of the Fisher Island turning basin, and to provide a channel 44 feet deep and 500 feet wide from the open ocean to the existing beach line, 42 feet deep and 500 feet wide from the beach line to cut 3 station 33+00 (near Fisher Island turning basin), and 42 feet deep and 400 feet wide from Fisher Island turning basin to the west end of the container berths located on Lummus/Dodge Island. This channel would terminate in a turning basin with a depth of 42 feet and a diameter of 1,600 feet."

c. Construction of those authorized dimensions as of January 2002 includes the 44-foot deep by 500-foot wide channel from the open ocean to the existing beach line and the 42-foot deep by 500-foot wide segment from the beach line to Cut 3 station 33+00 (near Fisher Island turning basin). The remaining 42-foot deep by 400-foot wide segment from the Fisher Island turning basin to the west end of the container berths on Lummus/Dodge Island is partially complete. The Miami-Dade County Seaport Department has requested the U.S. Army Corps of Engineers to complete construction of that remaining segment under a 204e agreement (to be modified to a Project Cooperation Agreement) which allows the project sponsor to pay for all design and construction initially and then seek reimbursement for the Federal share upon satisfactory completion of each usable increment.

3. Project Location. Miami Harbor, also known as the Port of Miami, is an island consisting of approximately 660 acres that is located at the northern part of Biscayne Bay in South Florida. The City of Miami is located on the west side of Biscayne Bay and the City of Miami Beach is located on a peninsula on the northeast side of the bay, opposite Miami. Both cities are located in Miami-Dade County, Florida, and are connected by several causeways crossing the bay. The Port is the southernmost major Atlantic Coast port.

4. Project Description.

a. The existing Federal project for Miami Harbor navigation features consists of an entrance channel, interior channel, turning basin, protective jetties and berthing areas. The reevaluation is at the request of local interests.

b. The improvements to the project include deepening and widening the existing channel to improve navigation safety. The existing 42-foot project depths are not adequate for many ships. Access to the project areas will be by water.

c. The primary disposal site is the existing offshore dredged material disposal site (ODMDS). These lands are within the navigable waters of the United States and are available to the Federal Government directly by navigation servitude.

d. The secondary disposal alternative is the use of approximately 65 acres at Virginia Key upland disposal area. It is located on the north tip of Virginia Key (See map at the end of this appendix) and was historically used for spoil disposal when dredging Port channels. The property is owned by the City of Miami. A legal determination was made regarding the applicability of the navigational servitude rights within this area. If the property is now or ever was part of a navigable waterway, it would be subject to the navigational servitude interest of the United States of America (Government). As such, the Government can use the land in connection with this navigational project and such use would not constitute a "taking" requiring compensation. Recommend this matter be discussed with the City and the local sponsor. If disagreement is expressed with the exercise of navigational servitude, then a topographical survey will be the deciding factor for establishing its elevation.

e. The local sponsor is responsible for providing a small staging work area located along the Port's undeveloped berthing area north of Lummus Island Turning Basin or the Middle Turning Basin for equipment and supplies. Contractor will coordinate staging area with the sponsor and no estates are required since this area is available through navigation servitude.

f. The 100-foot channel extension of the Lummus Island (Fisherman's Channel) will not extend into the Bill Sadowski Critical Wildlife Area (CWA). The proposed project will be contained within Port-owned lands, outside of the CWA.

g. Real estate requirements for the proposed project improvements are mainly administrative and are estimated at \$25,000.

5. Federal Owned Lands. Miami Harbor is a Federal navigation project and under the Commerce Clause of the U.S. Constitution, the Federal Government has the right to use, control, and regulate the navigable waters of the United States and the submerged lands thereunder.

6. Non-Federal Owned Lands. The non-federal sponsor is the Miami-Dade County Seaport Department (Port of Miami) and they would be required to provide all lands, easements, and rights-of-way above the mean high water line. The Port owns the submerged lands under the channels and beyond; however, all lands identified for this project are currently available by navigation servitude.

7. Estates. There are no estates to be acquired for this project.

8. Navigation Servitude. The government will be exercising navigational servitude in support of this project. Navigational servitude will apply to all dredging work, deepening within the channels, disposal on Virginia Key, staging work areas, ocean placement of material, the compensatory reef and seagrass mitigation site(s), and the fill areas identified as III-A, III-B, and III-C. All lands below the mean high water line are within the navigable waters of the United States and are available to the Federal Government directly by navigation servitude. If this should be disputed, a topographical survey will be the decisive action for purposes of establishing the elevation for certainty.

9. Project Map(s). Refer to Figures 1-10 in the Main report for proposed project maps.

10. Real Estate Baseline Cost Estimate.

Lands and Damages	\$ 0
Acquisition/Administrative Costs	
Federal	\$10,000
Non-Federal	\$10,000
Contingencies (25%) (Rounded) *	\$ 5,000
Total Estimated Real Estate Costs (RD)	\$25,000

*Contingencies of 25% are estimated to cover uncertainties associated with refinement of boundary lines during ownership verification.

11. Relocation Assistance Benefits. There are no persons or businesses to be relocated due to project implementation.

12. Minerals. No known minerals exist in the project area.

13. Non-Federal Sponsor's Authority to Participate. The Miami-Dade County Seaport Department is the non-federal sponsor for this project. Their authority to participate in the project is derived through its creation by Act of the Legislature of the State of Florida, Chapter 63-1447, Laws of Florida. The Port Authority has experience in land acquisition. The non-Federal sponsor has participated in other federally sponsored projects.

14. Real Estate Milestones. No acquisition of real estate is required; however, coordination should be performed for navigation servitude.

15. Relocations of Roads, Bridges, Utilities, Towns, & Cemeteries. There are no known roads, bridges, structures, towns, or cemeteries to be affected as part of the federal project. The following utilities would be impacted by the proposed deepening of Miami Harbor and must be relocated prior to completion of construction of this project.

a. Miami-Dade Water and Sewage Department (WASD) owns a 54-inch sewer main crossing within component #2A from Miami Beach to its Fisher Island treatment plant. This utility shall be treated as a deep draft utility relocation since it is located in a cut with an authorized depth of greater than 45 feet and 50 percent of the cost would be paid by the facility owner and 50 percent would be paid by the non-Federal sponsor.

b. WASD also owns a water main from Fisher Island to Lummus Island and is at a cut with an authorized depth of greater than 45 feet. This, too, shall be treated as a deep draft utility relocation with 50 percent of the cost paid by the facility owner and 50 percent paid by the non-Federal sponsor.

c. The Florida Power and Light Company (FP&L) owns two transmission lines (a 69 kV circuit and a 138 kV circuit each inside a 24-inch pipe conduit) from its Fisher Island plant to Lummus Island. The cables are at a cut with an authorized depth of greater than 45 feet. While this would normally fall under the deep draft utility relocation rule (DDUR), in this case it will be treated as a removal since the work was to have been performed during phase I, which had an authorized depth of less than 45 feet.

The attorney's analysis states that "any betterments that the facility owner may want to add to the new design will not be considered part of the deep draft utility relocation and the sponsor will not share in the attendant costs of such betterments." If FP&L decides to add a new line crossing Fisherman's Channel, no cost shall be borne by the project as such addition is neither a requirement of the project nor a result of a relocation caused by the project. The analysis also states that "should the utilities refuse to remove or relocate their crossings, a determination would have to be made on the responsibility to compel those removals, including the assessment of the capability of the non-Federal sponsor and the state to compel removals at owner cost. As applicable, letters from the non-Federal sponsor and the state would be required, requesting the Corps to exercise its rights under the navigation servitude to compel removals at owner cost. Since the WASD crossings fall under the DDUR, all administrative and legal costs incurred by the Corps to so compel WASD would be shared 50/50 between the non-Federal sponsor and the utility owner."

16. Presence of Contaminants (Hazardous, Toxic and Radioactive Wastes). There are no known hazardous or toxic materials located on the submerged lands or in the local berthing areas.

17. Attitude of Landowners. There are no private property owners directly affected by the federal project.